

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK


<p>JAMES BURKE and BRADLEY L. GROW as the designated Sellers' Representatives, etc.</p> <p>Plaintiffs,</p> <p>-against-</p> <p>HESTIA HOLDINGS, LLC, EATERIES, INC. and FIESTA HOLDINGS, INC.,</p> <p>Defendants.</p>	<p>Civ. No. 07-9909 (HB)</p> <p>STIPULATION OF DISMISSAL WITHOUT PREJUDICE</p>
<p>HESTIA HOLDINGS, LLC, EATERIES, INC. and FIESTA HOLDINGS, INC.</p> <p>Counterclaimants,</p> <p>-against-</p> <p>JAMES BURKE and BRADLEY L. GROW, as the designated Sellers' Representatives, EATERIES HOLDINGS, LLC, THE BURKE FAMILY, LLC, BRADLEY L. GROW, THE GROW FAMILY LLC, THE BRADLEY L. GROW REVOCABLE TRUST, VINCENT F. ORZA, PATRICIA L. ORZA, PATRICIA LANDI ORZA TRUST, ALEXANDRA MARIA ORZA TRUST, PATRICIA L. ORZA TRUST, VINCENT F. ORZA JR. TRUST, J.B. EDWARDS, DOUG DAVIS, PHILLIPS, MCFALL, MCCAFFREY, MCVAY & MURRAH 401K PROFIT SHARING PLAN, D. KEITH MCFALL, and BILL TOTTY,</p> <p>Counterclaim Defendants.</p>	

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiffs and Counterclaim Defendants, James M. Burke and Bradley L. Grow as Sellers' Representatives, along with Eateries Holdings, LLC, The Burke Family, LLC, Bradley L. Grow, The Grow Family, LLC, The Bradley L. Grow Revocable Trust, Vincent F. Orza, Patricia L. Orza, Patricia

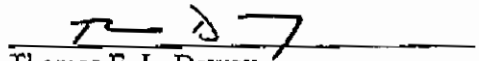
Landi Orza Trust, Alexandra Maria Orza Trust, Patricia L. Orza Trust, Vincent F. Orza Jr. Trust, J.B. Edwards, Doug Davis, Phillips McFall McCaffrey McVay & Murrah 401K Profit Sharing Plan, D. Keith McFall and Bill Totty, and Defendants and Counterclaimants, Hestia Holdings, LLC, Eateries, Inc. and Fiesta Holdings, Inc. stipulate to the dismissal of the captioned case without prejudice, each party to bear its own costs.

Dated: New York, New York
June 30 2008

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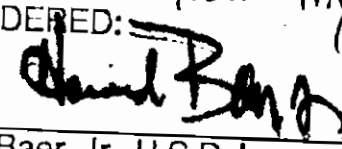

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The Clerk of the Court is instructed to close
and to remove this case from my docket.

SO ORDERED:


Harold Baer, Jr., U.S.D.J.

Date: 7/1/08

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7-1-08</u>
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